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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 26th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 17 August 2000, at 3 p.m.

Chairperson: Ms. MOTOC

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GE.00-15150 (E)

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The meeting was called to order at 3.05 p.m.

THE IMPLEMENTATION OF HUMAN RIGHTS WITH REGARD TO WOMEN:

(a) TRADITIONAL PRACTICES AFFECTING THE HEALTH OF WOMEN AND THE GIRL CHILD

(b) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT

(agenda item 5) (continued) (E/CN.4/Sub.2/2000/L.24)

Draft resolution on the situation of women and girls in Afghanistan (E/CN.4/Sub.2/2000/L.24) (continued)

1. Mr. LEBAKINE (Secretary of the Sub-Commission) said that Mr. Bengoa, Mr. Goonesekere, Mr. Guissé, Mr. Joinet, Mr. Pinheiro, Mr. Rodríguez Cuadros and Mr. Yimer were original sponsors of the draft resolution but had been inadvertently omitted from the heading in document E/CN.4/Sub.2/2000/L.24.

2. Mrs. WARZAZI said that, in view of the objections by some members of the Sub-Commission to the explicit references to Afghanistan in the draft resolution, she wished to suggest the following revisions which, she hoped, were acceptable to the other sponsors: replacement of the words "in Afghanistan" in the title, the second preambular paragraph and paragraphs 1, 5 and 7 by "in the territories controlled by the Afghan armed groups"; deletion of the last preambular paragraph; replacement of the words "of the armed groups in Afghanistan" in paragraph 8 by "of these groups"; and deletion of paragraph 10.

3. Mr. JOINET said that, while he wished to maintain his sponsorship of the revised version of the draft resolution, he would have preferred a Chairperson's statement since it could not be opposed by the Commission and would create a precedent.

4. Mrs. DAES, Mr. SIK YUEN and Ms. ZERROUGUI said they wished to become sponsors of the draft resolution.

5. Mr. WEISSBRODT said that, while he appreciated the spirit of compromise that had motivated the suggested revisions, he did not think that they solved the legal problem of the Commission's disapproval of the adoption by the Sub-Commission of country-specific resolutions. However, as the draft resolution seemed to enjoy the support of a considerable number of the experts, he would not stand in the way of a consensus and would not participate in the vote.

6. Mr. KARTASHKIN said that, although he had initially hesitated to support the draft resolution for the reasons referred to by Mr. Weissbrodt, he thought that the legal objections had been removed by the suggested revisions. He hoped that the draft resolution would be adopted by consensus.

7. The draft resolution, as orally revised, was adopted.

8. Mr. FAN, reiterating his opposition to the adoption of country-specific resolutions, said that he placed the Chairperson's statements in the same category.

CONTEMPORARY FORMS OF SLAVERY (agenda item 6) (continued)
(E/CN.4/Sub.2/2000/L.2, L.15 and L.22)

Draft resolution on the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery
(E/CN.4/Sub.2/2000/L.2)

9. Mr. WEISSBRODT and Mr. YOKOTA said they wished to become sponsors of the draft resolution.

10. The draft resolution was adopted.

Draft resolution on systematic rape, sexual slavery and slavery-like practices
(E/CN.4/Sub.2/2000/L.15)

11. Ms. FREY, introducing the draft resolution, said that it represented the final step towards the publication and dissemination of the report by the Special Rapporteur of the Sub-Commission, Ms. McDougall, on systematic rape, sexual slavery and slavery-like practices. It had been an extremely valuable exercise in that an attempt had been made to address atrocities that were all too common and yet frequently overlooked. She trusted that the Sub-Commission would facilitate the wide distribution of the Special Rapporteur's pioneering work by adopting the draft resolution.

12. The reference to document E/CN.4/Sub.2/2000/20 in paragraph 6 should be corrected to read E/CN.4/Sub.2/2000/21.

13. Ms. HAMPSON, noting that paragraph 3 called on the High Commissioner for Human Rights to monitor the implementation of the resolution as well as resolution 1999/16 and to report to the Sub-Commission at its fifty-third session, said that the report in question should deal not only with ongoing conflicts but also with, for example, paragraph 11 of resolution 1999/16. On that understanding, she supported the draft resolution.

14. The draft resolution, as orally corrected, was adopted.

Draft resolution on the report of the Working Group on Contemporary Forms of Slavery
(E/CN.4/Sub.2/2000/L.22)

15. The CHAIRPERSON, noting that the draft resolution had just been made available in English only, suggested that its consideration be deferred until the next meeting.

16. It was so agreed.

HUMAN RIGHTS OF INDIGENOUS PEOPLES:

(a) INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND

(agenda item 7) (continued) (E/CN.4/Sub.2/2000/L.19, L.37, L.38 and L.43)

Draft resolution on draft principles and guidelines for the protection of the heritage of indigenous peoples (E/CN.4/Sub.2/2000/L.19)

17. Mr. GUISSÉ and Ms. ZERROUGUI said they wished to become sponsors of the draft resolution.

18. The draft resolution was adopted.

Draft resolution on the Working Group on Indigenous Populations (E/CN.4/Sub.2/2000/L.37)

19. Mr. ALFONSO MARTÍNEZ said that Mr. Guissé and Mr. Yokota had been inadvertently omitted from the list of sponsors of the draft resolution.

20. Mr. EIDE said he noted a difference of approach in the wording of paragraph 1 of the draft resolutions relating to the work of the Sub-Commission's three Working Groups. He suggested that the wording should be harmonized.

21. He proposed either that paragraph 4 be deleted altogether or that the words "upon request" be inserted after "Working Group".

22. He thought that the recommendation to the Commission on Human Rights in paragraph 18 that it appoint a special rapporteur on indigenous issues was somewhat inappropriate in the light of the decision to set up a Permanent Forum for Indigenous People. He proposed that the paragraph should be deleted.

23. Mr. GUISSÉ said that the wording of paragraph 1 was identical to that adopted in previous resolutions on the same subject. There was no reason to amend it.

24. The role of the Permanent Forum was different from that of a special rapporteur. The former met only from time to time, whereas the latter could devote all his or her time to a study of the topic. He was thus opposed to the deletion of paragraph 18.

25. Mr. KARTASHKIN asked what the mandate of the special rapporteur would be: to receive information from the parties concerned or to conduct research and prepare a study on the subject.

26. Mr. JOINET said he supported Mr. Eide's proposed amendment to paragraph 4.

27. Mr. ALFONSO MARTÍNEZ said he was prepared to delete the reference to himself as Chairperson-Rapporteur in paragraph 1.

28. The recommendation that a special rapporteur be appointed reflected suggestions to the Working Group by a number of representatives of indigenous peoples and by the delegation of Guatemala to the Commission on Human Rights.

29. He was willing to accept Mr. Eide's proposed amendment to paragraph 4.

30. Mr. EIDE said he had no strong feelings about the wording of paragraph 1. He was willing to leave it unchanged, but he maintained his proposal to delete paragraph 18.

31. Ms. MBONU said that the special rapporteur would perform a very different function from the Permanent Forum. It was vital that paragraph 18 be retained.

32. Mr. ALFONSO MARTÍNEZ said that he would not object to the deletion of paragraph 18.

33. MR. GUISSÉ said that he would not insist on retaining the paragraph although, like Ms. Mbonu, he deemed it important. The mandates of the special rapporteur and the Permanent Forum would be quite distinct.

34. Mr. YOKOTA said that he supported the proposal to insert, in paragraph 4, the words "upon request". For the sake of consensus, he would not oppose deletion of paragraph 18. An alternative possibility, however, would be to leave the matter open by using the phrase "requests the Commission to consider the possibility of". One important function of the special rapporteur would be to study communications and individual rights.

35. Mrs. DAES said that, in the light of the discussion and in the interests of consensus, she was prepared to accept the two main amendments proposed by Mr. Eide and supported by Mr. Alfonso Martinez, including the deletion of paragraph 18. The recommendation in paragraph 18 had formed the subject of a draft resolution introduced by the delegation of Guatemala at the most recent session of the Commission on Human Rights and later withdrawn on the understanding that it might be reintroduced at the following session. The mandate of the Permanent Forum had not been finalized and might yet include a complaints mechanism.

36. Mr. ALFONSO MARTÍNEZ said that he was prepared to accept either the deletion of paragraph 18 or Mr. Yokota's compromise solution. He wished to point out, however, that the paragraph made no mention of any dispute-settlement mechanism and that the appointment of a special rapporteur would not "cause any problems" for the Permanent Forum.

37. Mrs. WARZAZI said that she could see that Mr. Eide agreed with both Mr. Yokota and Mr. Alfonso Martinez in respect of paragraph 18. She was in favour of retaining the paragraph and would be able to support Mr. Yokota's proposal if the word "usefulness" rather than "possibility" were employed. The decision on whether or not to appoint a special rapporteur on indigenous issues would then rest solely with the Commission.

38. Ms. MBONU said she agreed with Mrs. Warzazi. She would ask for a vote on the draft resolution if paragraph 18 was deleted, since she felt strongly that the establishment of the Permanent Forum should not lead to indigenous issues being dropped from the agenda.

39. Mr. EIDE said that, for the sake of consensus, he would be able to support the proposed amendments to paragraphs 4 and 18 - the latter as formulated by Mrs. Warzazi.

40. Mr. RODRÍGUEZ-CUADROS said that he wished to become a sponsor of the draft resolution.

41. The draft resolution, as orally amended, was adopted.

Draft resolution on the International Decade of the World's Indigenous People (E/CN.4/Sub.2/2000/L.38)

42. Mr. WEISSBRODT, supported by Mr. EIDE, said that both the Commission on Human Rights and the Sub-Commission were divided over the question as to whether the establishment of the Permanent Forum on Indigenous Issues justified the abolition of the Working Group on Indigenous Populations. He thus wished to propose an amendment to paragraph 9 of the draft resolution which should prove acceptable to both camps. The word "necessarily" should be inserted before the words "be construed", and the second occurrence of the word "should" (after the word "which") should be replaced with the word "could". If his amendments were accepted, he would become a sponsor of the draft resolution.

43. Mr. EIDE, supported by Mr. WEISSBRODT said that, in the same paragraph, the operative verb "notes" would be more appropriate than "endorses".

44. Mr. ALFONSO MARTÍNEZ said that use of the word "could" rather than "should" was inappropriate since it would imply that the Working Group was not actually obliged to fulfil its mandate. His initial reaction to the proposed change of operative verb was that "endorses" should be retained; the nuance being actually rather important. In the interests of consensus, however, he would be prepared to accept the insertion of the word "necessarily".

45. Mr. WEISSBRODT said that the insertion of the word "necessarily" would answer his main concern and that he would be prepared to become a sponsor if just that one amendment was accepted.

46. Mr. EIDE said that it would be illogical for the Sub-Commission to "endorse" opposing views. Only the operative verb "notes" could be used.

47. Mr. ALFONSO MARTÍNEZ, supported by Mr. YOKOTA and Mr. GUISSÉ, said that he would be able to accept the insertion of the word "necessarily" and the change in the operative verb, but not the replacement of "should" by "could".

48. Paragraph 9 was revised, in accordance with the amendments accepted by the sponsors of the draft resolution.

49. The draft resolution, as orally revised, was adopted.

Draft decision on the update to the final working paper on indigenous peoples and their relationship to land (E/CN.4/Sub.2/2000/L.43)

50. Mr. JOINET, requesting clarification from the Secretariat, asked whether the update to the final working paper would bear the symbol E/CN.4/Sub.2/2000/25/Rev.1.

51. Mr. LEBAKINE (Secretary of the Sub-Commission) said that, if the usual practice was followed, the document would be issued under a year 2001 symbol.

52. Mr. JOINET asked whether that meant that the document would be updated on an annual basis.

53. Mr. LEBAKINE (Secretary of the Sub-Commission) said that that would be for the Sub-Commission to decide.

54. Mr. GUISSÉ said he was concerned that the proposed decision would merely result in further duplication of work - a reproach which had been levied at the Sub-Commission by the Commission on Human Rights.

55. Mrs. DAES, said that the study in question had been initiated two years previously on the basis of a resolution adopted by the Commission on Human Rights itself. It was surely only right that she, as Special Rapporteur, should have the option of taking into account the comments on the issue made in the Working Group on Indigenous Populations by the representatives of indigenous peoples and of Governments.

56. Mr. Guissé would do well to read the introduction to her working paper (E/CN.4/Sub.2/2000/25), which explained the situation. Drawing attention to an error in the heading of the draft decision, she said that her name should not have appeared as a sponsor

57. The draft decision, as orally corrected, was adopted.

PREVENTION OF DISCRIMINATION AGAINST AND THE PROTECTION OF MINORITIES (agenda item 8) (continued) (E/CN.4/Sub.2/2000/L.21 and L.27)

Recommendation concerning a draft decision on the human rights problems and protection of the Roma (E/CN.4/Sub.2/2000/L.21)

58. Mr. JOINET said that he had initially had some difficulty with Mr. Sik Yuen's use of the term "integration" in respect of the Roma. It should not be taken as synonymous with settlement. Following informal consultations with Mr. Sik Yuen, however, he had decided to become a sponsor of the recommendation.

59. Mr. YIMER said that he, too, wished to become a sponsor.

60. The recommendation was adopted.

Draft resolution on the rights of minorities (E/CN.4/Sub.2/2000/L.27)

61. Mr. ALFONSO MARTÍNEZ said that he wished to become a sponsor of the draft resolution and would have done so earlier had he been familiar with its text. He had participated in the Working Group on Minorities in 1999 and had found the experience most enlightening.

62. Mr. GUISSÉ and Mr. OGURTSOV said they, too, wished to become sponsors.

63. The draft resolution was adopted.

THE ADMINISTRATION OF JUSTICE AND HUMAN RIGHTS:

(a) QUESTION OF HUMAN RIGHTS AND STATES OF EMERGENCY

(b) APPLICATION OF INTERNATIONAL STANDARDS CONCERNING THE HUMAN RIGHTS OF DETAINED JUVENILES

(c) GROSS AND MASSIVE VIOLATIONS OF HUMAN RIGHTS AS AN INTERNATIONAL CRIME

(d) JUVENILE JUSTICE

(e) PRIVATIZATION OF PRISONS

(f) INDIVIDUALIZATION OF PROSECUTION AND PENALTIES, AND REPERCUSSIONS OF VIOLATIONS OF HUMAN RIGHTS ON FAMILIES

(agenda item 9) (continued) (E/CN.4/Sub.2/2000/L.29, L.31, L.42)

Draft resolution on the death penalty in relation to juvenile offenders (E/CN.4/Sub.2/2000/L.29)

64. Ms. HAMPSON, introducing the draft resolution, said that, although the Sub-Commission had adopted a resolution on the death penalty the previous year (resolution 1999/4), the draft resolution before it concerned persons who were under 18 years of age when their offence was committed. All Member States bar two had a treaty obligation not to impose the death penalty on juvenile offenders. The two countries that had not ratified the Convention on the Rights of the Child were, however, bound by customary international law. The draft resolution had a very specific purpose to fulfil within those two countries, since the Sub-Commission would affirm that imposition of the death penalty on juvenile offenders was contrary to customary international law, and would call upon the Commission on Human Rights to do likewise.

65. The issue, alas, was only too urgent. On 24 August 2000 in the state of Georgia, United States of America, Alex Williams, a child offender who had been only 17 at the time of his offence - and mentally ill to boot - was due to be sent to the electric chair. There were currently 80 persons on "death row" in the United States for crimes committed at age 16 or 17. If Alex Williams was executed the following week, he would be the fifth child offender to be

executed in the United States in the current year - more than in any year since 1954. The draft resolution was designed to provide a useful tool to lawyers representing juvenile offenders on "death row".

66. Mr. ALFONSO MARTÍNEZ said that Ms. Hampson had explained the legal situation to him in some detail and he wished to become a sponsor of the draft resolution. The imposition of the death penalty on juvenile offenders did, indeed, constitute a violation of international law. There was no doubt that the relevant provision in the Convention on the Rights of the Child meant that the rule of jus cogens applied. He wished to pay tribute to Ms. Hampson's negotiating skills.

67. Mr. MBONU said that she would have become a sponsor if her concerns regarding the second preambular paragraph and paragraph 4 had been met. In both paragraphs, Commission on Human Rights Resolution 2000/65 of 26 April 2000 was cited, even though that resolution dealt also with the imposition of the death penalty on adults. Since, however, it was her conviction that juveniles should not be executed, she would certainly not oppose the consensus.

68. Mr. KARTASHKIN said that, since the draft resolution referred to a number of international instruments, the references to international law in the last preambular paragraph and in paragraphs 2 and 3 should be changed to "customary and treaty international law".

69. Mr. GUISSÉ stressed that the draft resolution called for the abolition of the death penalty for those aged under 18 at the time of the commission of the offence, not at the time of the possible execution.

70. Ms. HAMPSON said that "international law" covered both treaty law and customary law and it would add nothing to insert "treaty law". The Convention on the Rights of the Child precluded the death penalty for offenders aged under 18, but was not binding on the States who were not parties to it.

71. Mrs. WARZAZI pointed out that "carrying a possible death sentence", in the fourth preambular paragraph, was wrongly translated in the French version as qui emportent la peine de mort.

72. Mr. JOINET said the correct phrase in French was encourir la peine de mort.

73. The draft resolution was adopted.

Draft resolution on the role of universal or extraterritorial competence in preventive action against impunity (E/CN.4/Sub.2/2000/L.31)

74. Mr. JOINET said that the draft resolution drew on the reports, on the impunity of perpetrators of human rights violations submitted by the Sub-Commission to the Commission on Human Rights and on Commission on Human Rights resolution 2000/68. It should also be seen in the context of the call by the Secretary-General, in the wake of an important decision by the Supreme Court of Chile, for a review of the consequences of that decision for the development

of international law. The main message of the draft resolution was that to bring the perpetrators of human rights violations to justice set an example for others and restored the dignity of victims.

75. The draft resolution was based on the principles outlined in the reports on impunity, which envisaged three levels of legal action. The first, which must take priority, consisted of the national courts, provided that they were independent and impartial and guaranteed a fair trial, as was the case in Chile. The second involved extraterritorial competence, under which a case could be brought before a court in a country other than the country in which the offence was committed, depending on the nationality of the perpetrator or the victim. The third consisted of the international courts in The Hague, Arusha, Sierra Leone and Rome. In the interests of setting a strong example to prevent future human rights violations, priority should be given to bringing to justice those at the top - the former heads of State or Government.

76. Mr. YOKOTA said he wished to become a sponsor of the draft resolution. He pointed out that "heads of State and Governments", in paragraph 2, should read "heads of State and Government".

77. Mr. GUISSÉ said that the resolution dealt with very technical concepts linked to sovereignty. The extraterritorial competence referred to in it was limited to those States in a position to exercise it, creating a two-track justice system that excluded States in developing countries that did not have the means to exercise that competence. He saw three levels of competence: national competence, which stopped at the border; international competence, which was entrusted to international bodies; and universal competence. The introduction of extraterritorial competence, which undermined national sovereignty and was available only to certain States, merely served to cloud the issue.

78. Moreover, he could not accept a resolution that purported to be objective and fair when it mentioned Chile by name and gave Pinochet's full name and former title.

79. Mrs. WARZAZI said that her initial reaction to the draft resolution had been the same as Mr. Guissé's, but she had come to see that it offered a golden opportunity to speak for the first time on impunity in the context of gross and massive violations of peoples' rights in specific countries.

80. Not one colonialist State had ever apologized to its former colonies, and colonialism - not to mention slavery - was a topic on which the Sub-Commission had kept a tight-lipped silence. She therefore proposed that the following text should be added to the third preambular paragraph:

> "... and aware of the need to study the massive violations perpetrated by the colonial Powers and engendered by the wars waged against peoples by foreign Powers, which constitute crimes against humanity and which should no longer benefit from impunity".

81. She also proposed the following new paragraph 3:

"Also considers that the highest priority should be given to the question of the war crimes and crimes against humanity perpetrated by the colonial Powers and by the foreign Powers responsible for wars forced on innocent peoples."

82. Ms. HAMPSON said that invoking extraterritorial competence had the advantage of establishing a greater connection between the person on trial and the court, as either the offender or the victim came under the court's jurisdiction.

83. She pointed out a small editorial error in the fourth preambular paragraph, where "heads of State and Government" should read "heads of State or Government".

84. Mr. BENGOA said that the draft resolution raised the important issue of the relationship between international law and the administration of justice at the national level. International instruments such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had made it possible to bring actions at the international level which had, in turn, enabled national courts to hold trials that otherwise would have been impossible for various reasons. For that reason, he fully supported the draft resolution. In his view, Mrs. Warzazi's amendments broadened the scope of the draft resolution and weakened its focus.

85. Mr. GUISSÉ said he still found the draft resolution unsatisfactory but he could fully support Mrs. Warzazi's amendments, provided that a mention of slavery was included, as slavery, like colonialism, was an inexhaustible source of prejudice.

86. Mr. EIDE, referring to Mr. Guissé's concern about a two-track system, pointed out that the draft resolution did invite Governments to cooperate among themselves, and that the invitation was addressed to both developing and developed countries. Mrs. Warzazi's amendments were outside the scope of the current draft resolution but they were a good idea in their own right and it would be worth preparing a working paper or draft resolution on them, once the legal technicalities involved had been sorted out, for the Sub-Commission at its next session.

87. Mr. JOINET said that he was opposed to Mrs. Warzazi's proposed amendments although he fully agreed with their actual contents. He did not agree that the Sub-Commission had been silent on colonialism and slavery; slavery, for example, had been mentioned in the reports on impunity and economic, social and cultural rights he had submitted together with Mr. Guissé. Slavery and colonialism were also mentioned in paragraph 17, subparagraph (b), of the resolution on the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, adopted earlier in the current session.

88. Colonialism was a complex issue: there were difficulties in bringing legal actions against dead people and, in Latin America, the colonists had first taken over the continent and then declared independence. Even the International Law Commission, which was currently debating State responsibility, could shed no light on the issue. Such a complex issue could not be dealt with in a short paragraph. He therefore offered to prepare a study on the question for the next session of the Sub-Commission.

89. With regard to Mr. Guissé's comments, he said that, in his original draft, he had referred, quite simply, to "General Pinochet", without mentioning Chile or giving him the title of "former President". He was not suggesting that extraterritorial jurisdiction should be universal, but only that advantage should be taken of it where it existed: Hassène Habré had been arrested in Senegal under universal jurisdiction, whereas General Pinochet would be judged by national courts thanks to pressure from extraterritorial jurisdictions. He insisted once again that national jurisdictions must take priority.

90. Mr. OGURTSOV said that paragraph 2 of the Russian version was poorly translated and needed to be corrected.

91. Ms. ZERROUGUI said that she could not accept a selective approach to the defence of human rights. Everyone guilty of gross and massive human rights violations must be brought to justice. Heads of State or Government had sometimes departed but other officials remained, and even invoked wars of liberation or colonialism to justify serious human rights violations. She would be able to support the draft resolution only if all gross and massive violations were taken into account.

92. Mr. GUISSÉ said that the cooperation amongst Governments mentioned by Mr. Eide often amounted to little more than domination by the most powerful States. He agreed with Ms. Zerrougui that the draft resolution introduced the concept of the selective protection of human rights. Only a few States were in a position to bomb a country, arrest its head of State and try that person on their own territory, and none of them were in the Third World. It would be better to withdraw the draft resolution until the next session and prepare a working paper to explain the issues involved.

93. As Mr. Joinet had said, he had carried out studies on impunity and economic, social and cultural rights in which he had discussed slavery, colonialism, apartheid and the looting of the cultural heritage of the Third World. However, those studies had been of no interest to those who were able to resort to extraterritorial jurisdiction.

94. Mr. ALFONSO MARTÍNEZ, said that, despite the universal repugnance at crimes against humanity, war crimes and other gross violations of human rights, the natural urge to bring perpetrators to justice must be tempered with calmness and clarity when proposing measures for that purpose, so as to avoid setting awkward precedents and giving rise to unforeseen implications. International legal procedures did exist, such as bilateral and other treaties, for cooperation in dealing with international crime, but he had doubts about the notion of extraterritorial competence of the sort evoked in the text.

95. He had misgivings, too, about the way in which the preambular part moved, in successive paragraphs, from the general to the particular - a reference to perpetrators in the second paragraph, to former heads of State and Government in the fourth and to General Augusto Pinochet in the fifth. It was precisely that sort of approach that heightened his concern about the risk of setting an unwelcome precedent. The text, therefore, warranted much more careful consideration. He could not support it as it stood, although he would not oppose it if it were put to a vote.

96. Ms. MBONU, speaking on a point of order, moved that the debate on the draft resolution be closed.

97. Mr. PINHEIRO and Mr. EIDE supported the motion.

98. Mr. GUISSÉ proposed that consideration of the draft resolution be postponed until the Sub-Commission's next session.

99. Mr. BENGOA said that the sponsors had hoped that the Sub-Commission would consider the draft resolution at its current session.

100. Ms. HAMPSON said that she was opposed to the postponement and felt that the Sub-Commission should consider the text, including the amendment proposed by Mrs. Warzazi, at its current session.

101. Mr. RAMISHVILI said that, although the subject-matter was highly important, the issues raised were certainly controversial. Adoption of the draft resolution by a vote would be unsatisfactory but so, too, would be a procedural postponement until the next session. He suggested, therefore, an informal consultation with a view to producing a text acceptable by consensus.

102. Following a procedural discussion in which Mr. RODRÍGUEZ-CUADROS, Mr. GUISSÉ, Mrs. DAES, Mr. ALFONSO MARTÍNEZ, Mr. FAN, Mr. JOINET and Mr.YOKOTA took part, the CHAIRPERSON suggested that consideration of the draft resolution (E/CN.4/Sub.2/2000/L.31) should be deferred until the next meeting, so as to allow time for informal consultations on its text.

103. It was so agreed.

Draft resolution on the question of enforced or involuntary disappearances
(E/CN.4/Sub.2/2000/L.42)

104. Mr. WEISSBRODT, introducing the draft resolution, drew attention to a change in the heading: the words "or involuntary" had been deleted.

105. Mr. BENGOA, having welcomed the change in the title, said that he wished to become a sponsor of the draft resolution.

106. The draft resolution, as orally revised, was adopted.

FREEDOM OF MOVEMENT:

(a) THE RIGHT TO LEAVE ANY COUNTRY, INCLUDING ONE'S OWN, AND TO RETURN TO ONE'S OWN COUNTRY, AND THE RIGHT TO SEEK ASYLUM FROM PERSECUTION

(b) HUMAN RIGHTS AND POPULATION DISPLACEMENTS

(agenda item 10) (continued) (E/CN.4/Sub.2/2000/L.25)

Draft resolution on the right to seek and enjoy asylum (E/CN.4/Sub.2/2000/L.25)

107. Mr. KARTASHKIN said that the principle of non-refoulement had not been accepted as a valid principle of current international law; indeed, widespread disagreement on that point had arisen at meetings to draft international instruments on refugees and asylum. He was opposed, therefore, to paragraph 1 of the text and urged the Sub-Commission to avoid the adoption of wording not consistent with international law.

108. Mr. WEISSBRODT, supported by Mr. GUISSÉ, said that the principle of non-refoulement was part of refugee law. He was ready, however, to discuss the text informally in the hope of reaching a consensus.

109. The CHAIRPERSON invited the members concerned to discuss the draft informally with a view to adoption of a text by consensus at the next meeting.

110. It was so agreed.

The meeting rose at 6 p.m.